

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

VIGILANT INSURANCE COMPANY, )

Plaintiff, )

vs. )

TURNER BROADCASTING )

SYSTEM, INC., TURNER STUDIOS, )

INC., HI-TECH FX LLC and )

INTERIOR FIRE PROTECTION, INC., )

Defendants. )

CIVIL ACTION FILE

NO. 1:10-CV-592-RLV

**PLAINTIFF'S INITIAL DISCLOSURES**

**(1) State precisely the classification of the cause of action being filed, a brief factual outline of the case including plaintiff's contentions as to what defendant did or failed to do, and a succinct statement of the legal issues in the case.**

This case arises from a fire that occurred on or about December 19, 2008, at a movie production facility in the Atlanta area owned by Production Consultants, LLC, d/b/a Production Consultants & Equipment ("PC&E"). The fire occurred in a PC&E sound stage being used by Defendant TBS on December 19, 2008, to film a "SpongeBob" production. In connection with the production, TBS hired Defendant Hi-Tech to create a pyrotechnic display. TBS filmed the production on December 19, 2008, and left the facility sometime after 5:00 p.m. TBS and its employees and contractors were the last persons to exit the sound stage on the evening of December 19, 2008. On Sunday morning, December 21, 2008, a PC&E employee remotely logged into the PC&E video surveillance system and saw smoke inside the facility. The employee immediately responded and found smoke in the PC&E facility, fire suppression sprinkler heads discharging water over the remains of an extinguished fire in the sound stage vacated by Defendant TBS the previous Friday, and several inches of water throughout a significant portion of the facility. Although the local, mechanical water gong had activated, the electrical

alarm system had not activated, and no alarm signal had been transmitted to PC&E's alarm service. As a consequence, the sprinklers had run for an extended period of time after extinguishing the fire, causing extensive water damage to PC&E's facilities, equipment, and business. The electrical alarm did not activate because the water flow switch on the sprinkler pipe serving the sound stage was inoperable. Because of its inoperable condition, it did not transmit a signal to PC&E's central alarm panel when water flowed through the pipe to the sprinkler heads in the sound stage. Vigilant's investigation determined that the fire was caused when material ejected from the pyrotechnics used by Defendant Hi-Tech became lodged in the sound deadening cellulose insulation covering the walls of the sound stage. The fire smoldered under the cellulose insulation for an undetermined time, but at least for several hours, before breaking into open flame. Once the fire broke into open flame, it was extinguished by the automatic fire protection sprinkler system in the sound stage. The activation of the sprinkler system should have immediately activated the electrical fire alarm system installed on PC&E's premises. Because of the inoperable condition of the water flow switch installed on the sprinkler pipe protecting the sound stage, the electrical alarm did not activate. Defendant Interior failed to detect the inoperable condition of the water flow switch during its last inspection, leaving PC&E unaware that its alarm would not activate as intended when the sprinkler system activated. Because of the lack of an alarm signal, the sprinkler system continued to discharge water for an extended period of time after extinguishing the fire in the sound stage. As a result, PC&E suffered extensive water damage, in addition to the damage caused by fire and smoke, resulting in total damages to Vigilant of \$1,871,508.60.

**(2) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which plaintiff contends are applicable to this action.**

O.C.G.A. §51-1-1; O.C.G.A. §51-1-2; O.C.G.A. §51-1-6; and, O.C.G.A. §51-1-8; O.C.G.A. §13-6-1; O.C.G.A. §13-6-2; O.C.G.A. §13-6-11; O.C.G.A. §13-6-13; National Fire Protection Association Publication 1126; National Fire Protection Association Publication 25.

**(3) Provide the name and, if known, the address and telephone number of each individual likely to have discoverable information that you may use to support your claims or defenses, unless solely for impeachment, identifying the subjects of the information. (Attach witness list to Initial Disclosures as Attachment A.)**

See Attachment A.

**(4) Provide the name of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. For all experts described in Fed.R.Civ.P. 26(a)(2)(B), provide a separate written report satisfying the provisions of that rule. (Attach expert witness list and written reports to Responses to Initial Disclosures as Attachment B.)**

See Attachment B.

**(5) Provide a copy of, or a description by category and location of, all documents, data compilations, and tangible things in your possession, custody, or control that you may use to support your claims or defenses unless solely for impeachment, identifying the subject of the information. (Attach document list and descriptions to Initial Disclosures as Attachment C.)**

See Attachment C.

**(6) In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of, or describe by category and location of, the document or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered, making such documents or evidentiary material available for inspection and copying as under Fed.R.Civ.P. 34. (Attach any copies and descriptions to Initial Disclosures as Attachment D.)**

<b>Category</b>	<b>Amount</b>
Building	\$864,352.21
Debris Removal	\$214,834.69
Business Income	\$500,000.00
Extra Expense	\$29,518.93
Personal Property	\$262,802.77
Salvage	(\$1629.90)
Total	\$1,869,878.70

**(7) Attach for inspection and copying as under Fed.R.Civ.P. 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment. (Attach copy of insurance agreement to Initial Disclosures as Attachment E.)**

None applicable.

**(8) Disclose the full name, address, and telephone number of all persons or legal entities who have a subrogation interest in the cause of action set forth in plaintiff's cause of action and state the basis and extent of such interest.**

Vigilant Insurance Company, 15 Mountain View Road, Warren, NJ 07059-6711, (215) 981-8316.

This 21st day of April, 2010.

s/ David M. Bessho

David M. Bessho

Georgia Bar No. 055784

Attorney for Plaintiff

Cozen O'Connor  
SunTrust Plaza, Suite 2200  
303 Peachtree Street, N.E.  
Atlanta, Georgia 30308  
Telephone: (404) 572-2000  
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VIGILANT INSURANCE COMPANY,	)	
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Plaintiff,	)	
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vs.	)	
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TURNER BROADCASTING	)	
SYSTEM, INC., TURNER STUDIOS,	)	NO. 1:10-CV-592-RLV
INC., HI-TECH FX LLC and	)	
INTERIOR FIRE PROTECTION, INC.,	)	
	)	
Defendants.	)	

**ATTACHMENT A TO PLAINTIFF'S INITIAL DISCLOSURES**

The following persons are likely to have discoverable information regarding Plaintiff's claims:

Douglas Smith  
Production Consultants and Equipment  
2235 DeFoor Hills Road  
Atlanta, GA 30318  
Subject: Mr. Smith is the owner of plaintiff's insured, Production Consultants & Equipment, and has knowledge of the fire at issue and facts surrounding the loss.

Loren Smith  
Randy Nappier  
Mark Wofford  
Steve Sonsini  
Production Consultants and Equipment  
2235 DeFoor Hills Road  
Atlanta, GA 30318

Subject: The referenced individuals are employees of plaintiff's insured, Production Consultants & Equipment, and has knowledge of the fire at issue and facts surrounding the loss.

Adam Pickett  
Inspection & Service Manager  
Interior Fire Protection, Inc.  
3700 Namasco Drive, Ste F  
Suwannee, Georgia 30024  
(770) 831-7978

Subject: Mr. Pickett is employed by defendant Interior Fire Protection, the company that performed inspections of the fire protection system installed in the building operated by Production Consultants & Equipment and has knowledge in that regard.

John Stachura  
Engle Martin & Associates, Inc.  
5180 Roswell Road, Suite N100  
Atlanta, GA 30342  
(404) 303-7160

Subject: Mr. Stachura is a property adjuster employed by Engle Martin & Associates, the company that was assigned to inspect the loss at issue on behalf of Interior Fire Protection.

Justin Bisig  
Servpro  
1855 McFarland 400 Drive  
Alpharetta, GA 30004  
(404) 261-2925

Subject: Mr. Bisig is an employee of Servpro, the company that provided restoration services to the building occupied by Production Consultants & Equipment subsequent to the fire at issue.

Jason McGahee  
Ken Brooks  
Epic Response  
2145 Barrett Park Drive, Suite 108  
Kennesaw, GA 30144  
(770) 516-3491

Subject: Mr. McGahee and Mr. Brooks are employees of Epic Response, the company that provided cleaning and decontamination services to the building occupied by Production Consultants & Equipment subsequent to the fire at issue.

Dale Young, CPA  
Rhodes, Young, Black & Duncan  
The Meridian at Sugarloaf  
2736 Meadow Church Road, Suite 200  
Duluth, GA 30097

Subject: Mr. Young is employed by Rhodes, Young, Black & Duncan, the accounting firm that assisted in adjusting the business income lost by Production Consultants & Equipment as a result of the fire at issue.

Dan Arnold  
Seneca Fire engineering, LLC  
1205 Johnson Ferry Road  
Suite 136-400  
Marietta, GA 30068

Subject: Mr. Arnold was retained by plaintiff to conduct an inspection of the fire protection system at the building occupied by Production Consultants & Equipment subsequent to the fire at issue.

Mark Rhodes  
John Stewart  
Arthur Vanderhoogt  
Rimkus Consulting Group, Inc.  
2030 Powers Ferry Road, Suite 224  
Atlanta, Georgia 30339

Subject: Mr. Rhodes, Mr. Stewart, and Mr. Vanderhoogt were retained by plaintiff to conduct an inspection of the roof and ductwork at the building occupied by Production Consultants & Equipment subsequent to the fire at issue.

W. Tim Blake  
Chubb Group of Insurance Companies  
1000 Urban Center Drive, Suite 205  
Birmingham AL 35242

Subject: Mr. Blake is a property adjuster employed by plaintiff and performed work in connection with the insurance adjustment as a result of the losses sustained by Production Consultants & Equipment.



Brett Hellenga  
Risk Management Dept.  
Turner Broadcasting System, Inc.  
One CNN Center, 14SE  
Atlanta, Georgia 30303

Subject: Mr. Hellenga is employed as a risk manager by defendant Turner Broadcasting System, Inc., the company that was responsible for filming the production, with the use of pyrotechnics, which plaintiff contends caused the fire at issue.

Rick Lambright  
Hi-Tech FX  
PMBC 3330  
Cobb Pkwy, Ste. 17  
Acworth, GA 30101

Subject: Mr. Lambright is employed by defendant Hi-Tech FX, the company that used pyrotechnics in Production Consultants & Equipment's studio, which plaintiff contends caused the fire at issue.

Grady Nappier  
Peerless Construction Company, Inc.  
245 Bear Creek Trail  
Hampton, GA 30228  
(404) 538-2897

Subject: Mr. Nappier is the owner of Peerless Construction Company, Inc., and was retained by plaintiff's insured to evaluate the damages caused by the fire at issue.

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INTERIOR FIRE PROTECTION, INC.,	)	
	)	
Defendants.	)	

**ATTACHMENT B TO PLAINTIFF'S INITIAL DISCLOSURES**

Plaintiff may use the following persons at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence:

Dan Arnold  
Seneca Fire engineering, LLC  
1205 Johnson Ferry Road  
Suite 136-400  
Marietta, GA 30068  
Subject: Mr. Arnold was retained by plaintiff to conduct an inspection of the fire protection system subsequent to the fire at issue.

Mark Rhodes  
John Stewart  
Arthur Vanderhoogt  
Rimkus Consulting Group, Inc.  
2030 Powers Ferry Road, Suite 224  
Atlanta, Georgia 30339  
Subject: Mr. Rhodes, Mr. Stewart, and Mr. Vanderhoogt were retained by plaintiff to conduct an inspection of the roof and ductwork at the building occupied by Production Consultants & Equipment subsequent to the fire at issue.

W. Tim Blake  
Chubb Group of Insurance Companies  
1000 Urban Center Drive, Suite 205  
Birmingham AL 35242

Dale Young, CPA  
Rhodes, Young, Black & Duncan  
The Meridian at Sugarloaf  
2736 Meadow Church Road, Suite 200  
Duluth, GA 30097

Subject: Mr. Young is employed by Rhodes, Young, Black & Duncan, an accounting firm that assisted in adjusting the business income lost by Production Consultants & Equipment as a result of the fire at issue.

Byron Walden, CPA  
Fishkind & Associates  
12051 Corporate Boulevard  
Orlando, Florida 32817

Subject: Mr. Walden is employed by Fishkind & Associates, an accounting firm that assisted in adjusting the business income lost by Production Consultants & Equipment as a result of the fire at issue.

Karen Neri  
Bob Magaudda  
Hyperion Claim Specialists, LLC  
550 South Hope Street, Suite 1625  
Los Angeles, CA 90071-2650

Subject: Ms. Neri and Mr. Magaudda are employed by Hyperion Claim Specialists, LLC, an accounting firm that assisted in adjusting the business income lost by Production Consultants & Equipment as a result of the fire at issue.

Jason McGahee  
Ken Brooks  
Epic Response  
2145 Barrett Park Drive, Suite 108  
Kennesaw, GA 30144  
(770) 516-3491

Subject: Mr. McGahee and Mr. Brooks are employees of Epic Response, the company that provided cleaning and decontamination services to the building occupied by Production Consultants & Equipment subsequent to the fire at issue.

Expert reports will be produced in accordance with this Court's Local Rules, if applicable.

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INTERIOR FIRE PROTECTION, INC.,	)	
	)	
Defendants.	)	

**ATTACHMENT C TO PLAINTIFF’S INITIAL DISCLOSURES**

In support of its contentions and damages claimed herein, plaintiff will make its claim file available to defendants for inspection and copying, subject to redaction for work product and attorney client privileged materials.

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INC., HI-TECH FX LLC and	)	
INTERIOR FIRE PROTECTION, INC.,	)	
	)	
Defendants.	)	

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he has served a copy of the foregoing **Plaintiff's Initial Disclosures** upon counsel, via this Court's electronic filing system, as follows:

Howard M. Lessinger  
McLain & Merritt  
3445 Peachtree Road, N.E., Suite 500  
Atlanta , GA 30326

Wade K. Copeland  
Lee P. Gutschenritter  
Carlock Copeland Semler & Stair  
285 Peachtree Center Avenue, N.E.  
Atlanta , GA 30343-0887

Daniel S. Reinhardt  
Troutman Sanders LLP  
5200 Bank of America Plaza  
600 Peachtree Street  
Atlanta GA 30308

Turner Studios, Inc.  
c/o CT Corporation System  
12011 Peachtree Street, NE  
Atlanta, GA 30361  
(via U.S. Mail)

This 21st day of April, 2010.

s/ David. M. Bessho  
David M. Bessho